

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

UNITED STATES OF AMERICA )  
                                )  
                                )  
                                ) Case No. 1:08CR00008  
                                )  
v.                              ) )  
                                )  
                                ) **OPINION AND ORDER**  
TERRANCE ORLANDO CHATMAN, JR., ) JUDGE JAMES P. JONES  
                                )  
                                )  
                                )  
Defendant.                   )

*Whitney D. Pierce, Assistant United States Attorney, Abingdon, Virginia, for United States; Nancy C. Dickenson-Vicars, Assistant Federal Public Defender, Abingdon, Virginia, for Defendant.*

Defendant, by counsel, filed a Motion for Enlargement of Time in which to Note an Appeal on August 17, 2022. In his Notice of Appeal, filed on that same day, the defendant seeks to appeal both from the judgment revoking his supervised release and imposing a sentence, which judgment was entered May 26, 2022, and this court's Opinion and Order denying his Motion for Stay of Judgment and to Set Aside Finding of Supervised Release Violation, which Opinion and Order was entered on August 16, 2022.

The government, in its response to the motion, recognizes that the Notice of Appeal is untimely as to the May 26 judgment, but states that "in the unique circumstances of this case" it has no objection to the motion seeking enlargement of

time. Resp. 3, ECF No. 127. The time for filing a notice of appeal to the May 26 judgment was within 14 days thereafter. Fed. R. App. P. 4(b)(1)(A)(i). Thirty days from the expiration of that time would have been July 11 and the present Notice of Appeal was filed after that time.<sup>1</sup> “[B]ut Rule 4 is a mandatory claim-processing rule” and not jurisdictional. *United States v. Hyman*, 884 F.3d 496, 498 (4th Cir. 2018). Because the government disclaims any objection to the extension, I am not precluded from granting it. “These claim-processing rules thus assure relief to a party properly raising them, but do not compel the same result if the party forfeits them.” *Eberhart v. United States*, 546 U.S. 12, 19 (2005).

Accordingly, it is **ORDERED** that the Motion for Enlargement of Time in which to Note an Appeal, ECF No. 123, is GRANTED and the Notice of Appeal filed August 17, 2022, is deemed timely to the orders appealed from, including the judgment entered May 26, 2022.

ENTER: August 29, 2022

/s/ JAMES P. JONES  
Senior United States District Judge

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<sup>1</sup> Rule 4(b)(3)(A) extends the time for filing a notice of appeal from a “judgment of conviction” until after the disposition of a motion for a new trial under Federal Rule of Criminal Procedure 33, but I have previously noted in this case that Rule 33 has been held not to apply to revocation proceedings and in any event, the defendant did not seek relief under Rule 33. Op. & Order, ECF No. 121 (Aug. 16, 2022).